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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,496	12/11/2000	Brian Feinberg	60136.0128USU2	3605

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EXAMINER	
PARRA, OMAR S	
ART UNIT	**PAPER NUMBER**
2421	
MAIL DATE	**DELIVERY MODE**
06/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/734,496	FEINBERG ET AL.	
	Examiner	Art Unit	
	OMAR PARRA	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/02/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims **22-27, 33 and 35** are rejected under 35 U.S.C. 102(e) as being anticipated by Terreault (Patent No. 7,254,827).

Regarding claim 22, Terreault teaches a method for monitoring, from a remote location comprising a monitor and control unit **(computer 23, Fig. 1)**, operations of a head-end in an information distribution system **(col. 3 lines 54-67; col. 4 lines 38-49)**, the method comprising:

receiving, at a monitor and control unit, status from a head-end relating to operations performed at the head-end for providing content to terminals within a coverage area of the head-end **(the computer receives data and notifications from return path RF detectors on the headends, sub-headends, CMTs and other network devices; col. 4 lines 38-49; col. 9 lines 6-44; col. 12 lines 46-61)**;

receiving, at the monitor and control unit, identity, type and capability of a plurality of remote devices capable of responding to status from a head-end **(the computer is programmed for a remote mode in which after receiving status data from the monitored headend, it's able to automatically communicate, through network manager system, with multiple remote devices. The messages go from paging and e-mails; col. 13 lines 23-56);**

processing the status received from the head-end **(col. 9 lines 6-35)** in conformance with the indicated capabilities of remote devices designated by the monitor and control unit to receive the status **(the computer is programmed for a remote mode in which after receiving status data from the monitored headend, it's able to automatically communicate, through network manager system, with multiple remote devices. The messages go from paging and e-mails; col. 13 lines 23-56)**;

forwarding the processed status from the monitor and control unit to a communication server **(control computer 23 communicates with network management system 103, for a higher level of network operation, col. 12 lines 46-61; col. 13 lines 3-10)**; and

sending the processed status received by the communication server to the designated remote devices to present the status to off-site personnel for troubleshooting the operations of the head-end **(col. 13 lines 23-56)**.

Regarding claim 23, Terreault teaches further comprising:

receiving a response message at the server from the remote devices sent the status from the head-end;

forwarding, from the server, the response message to the monitor and control unit; and forwarding the response message, received by the monitor and control unit from the server, to a responsible entity in a targeted head-end, wherein the received response message from the at least one remote device includes a command to adjust a parameter of an operation performed at the targeted head-end **(the user can remotely take control of the devices at the headend as a response to the alarms, col. 13 lines 29-50. Following, as stated the flow of communication above -headend communicates to control computer 23, which can control headend devices and communicates with the network manager 103 for a higher level of networking and communication with remote devices- the control signals from the remote device have to follow the same path in opposite direction)**.

Regarding claim 24, Terreault teaches further comprising:

receiving indications of error conditions relating to the one or more operations **(col. 8 lines 13-31; col. 9 lines 6-35)**; and

forwarding one or more alert messages to the one or more remote devices in response to receiving the indications **(col. 13 lines 23-56)**.

Regarding claim 25, Terreault teaches further comprising:

polling a plurality of head-ends for status relating to the operations of each head-end **(col. 3 lines 42-53; col. 4 lines 38-54)**.

Regarding claim 26, Terreault teaches wherein the indicated capabilities is indicated as text, graphics, or a combination thereof **(the status messages are sent on text pager or email messages or the trace signals are sent for display if the remote display is for example, an Avatron Spectrum Analyzer; col. 13 lines 35-56)**.

Regarding claim 27, Terreault teaches further comprising:

receiving an indication of a particular reporting level for the remote devices designated to receive status, and wherein status are forwarded to the remote devices in conformance with the indicated reporting level **(computer 23 causes alarms only if alarm thresholds are reached, col. 13 lines 17-21; and can send alarm messages depending they type of the alarm, col. 13 lines 23-56)**.

Regarding claims 33 and 35, Terreault teaches wherein at least one of the plurality of remote devices is a wireless device **(alarm messages can be sent to pager devices which are wireless devices, col. 13 lines 52-56)**.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims **28-32 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Terreault (Patent No. 7,254,827) in view of Pandya et al. (hereinafter 'Pandya', Patent No. 6,671,724).

Regarding claims 23-32, Terreault teaches all the limitations of the claims they depend on. On the other hand, although Terreault teaches monitoring status on performance of a headend, he does not explicitly teach monitoring status of other operations performed at the headend related to status for one or more buffers for encoding data, relating to multiplexing, to a particular transport stream and to bit rates for a plurality of data being provided at the headend.

However, in an analogous art, Pandya teaches a method for monitoring from a remote location operations of a headend or server/network resources in a in distribution system (col. 4 lines 40-61). Among the operations monitored by the

system: status of one or more buffers used to store encoded data (col. 11 line 24-col. 12 line 29), multiplexing operations (col. 14 line 45-col. 16 line 28), status relating to a particular transport stream (col. 9 line 66-col. 11 line 15) and status related to bit rates of types of data (col. 11 line 36-col. 12 line 29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Terreault's invention with Pandya's featuring of monitoring status of the multiple other headend's operations for the benefit of having a more comprehensive and detailed control of the performance of the headends in all their areas.

Regarding claim 34, Terreault teaches all the limitations of the claim it depends on. On the other hand, although Terreault teaches being able to send messages to pagers, he does not explicitly teach that the remote device is a cellular telephone.

However, in an analogous art, Pandya teaches having cellular telephones as part of the devices that can be a control point or agent (terms given to devices that can monitor or being monitored, respectively; col. 4 lines 30-col. 67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Terreault's invention with Pandya's feature of having a cellular phone being a device that receives monitoring data for the benefit of having the most common mobile device with graphics, text and even video capability.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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